THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 31903 OF 1997

Date: 03.12.2007

Between:

The Executive Engineer, Panchayat Raj Division, Sangareddy, Medak District and another.

... Petitioner

and

The Presiding Officer, Labour Court II, A.P. Hyderabad and another.

...

Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 31903 OF 1997

ORDER:

Aggrieved by the award of the Labour Court II, Hyderabad, in I.D. No. 230 of 1993 dated 18.09.1996, the present writ petition is filed.

The Labour Court, taking note of the fact that the respondent-workman was continuously engaged as an NMR Watchman-cum-Pump operator from 15.02.1986 to 30.08.1993 held that in as much as he had put in more than 240 days of service in the year preceding his termination, and as such termination was in violation of Section 25-F of the Industrial Disputes Act, directed the petitioner herein to appoint him afresh without any other benefits.

Learned Government Pleader for Panchayat Raj would contend that, while the petitioner was hitherto engaged by the department, consequent to the water pumps being handed over to Grampanchayat his services were no longer required. He would rely on **Indian Drugs & Pharmaceuticals Ltd. Vs. Workmen, Indian Drugs & Pharmaceuticals Ltd**[1] to contend that, while persons can be employed on daily-wage basis in a contingency as additional hands without following the required procedure, this does not confer any right on such persons to continue in service or get regular pay and that such appointees do not have any right to claim permanent absorption in the establishment.

The question which arose for consideration before the Labour

Court was whether termination of the services of the second respondent was in accordance with or in violation of Section 25-F of the Industrial Disputes Act. The Labour Court has found as a fact that the second respondent had rendered more than 240 days of service in the twelve month period preceding his termination and since the conditions prescribed under Section 25-F of the Industrial Disputes Act had not been complied with, his termination was illegal and *ab-initio* void. In **Indian Drugs & Pharmaceuticals Ltd.**[1], this question did not arise for consideration. The consequences of an illegal termination, in violation of Section 25-F, is that the workman is entitled to be reinstated in the very same post which he hitherto held and since the respondent-workmen was hitherto engaged as an NMR watchman cum-pump operator he is entitled to be appointed afresh only as an NMR. The Labour Court has chosen not to grant any back wages to the second respondent. The award of the labour Court does not suffer from any illegality or irregularity necessitating interference under Article 226 of the Constitution of India. The writ petition fails and is accordingly dismissed. No costs.

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Date: 03.12.2007 RAMESH RANGANATHAN, J

MRKR

[1] (2007(1) SCC 408